

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 3550 OF 2006

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders

Ms. Asmat Hippargi for the petitioner.
Mr. K.S. Bapat for the respondents.

CORAM : Dr. D.Y. CHANDRACHUD, J.
DATE : 30TH JUNE, 2006

P.C.

. The Labour Court has dismissed an application - (IDA) No. 523 of 2001 filed under Section 33C (2) of the Industrial Disputes Act, 1947 by the impugned order. The application was filed in order to claim monetary benefits towards bonus, leave pay and compensation.

2. The contention of the management was that the petitioner has resigned from service on 11/4/1998. The petitioner admitted that he had resigned and that he

received his dues under the Employees Provident Fund and the Pension Scheme. The provident Fund withdrawal form and the employees pension scheme form shows that the employee has resigned on 11/4/1998. On an application for a reference to adjudication under Section 10 of Industrial Act, the appropriate Government by an order dated 2nd February, 2000 declined to make a reference on the ground that the workman had resigned from service and received all his dues including bonus. That order refusing to make a reference has not been challenged. The Third Labour Court, Mumbai was justified in coming to the conclusion that there was no adjudication of a pre existing right on the part of the workman to sustain an application under section 33C (2) of the Industrial Disputes Act, 1947. The remedy under section 33(2) could not have been availed of in the absence of a pre existing right. There is no merit in the

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petition.

. The Petition is dismissed.

(DR. D.Y. CHANDRACHUD, J.)